

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CIVIL NO. 5:04-cv-00019-W**

GEORGE A. O'BAR, and JACOB A. )  
PEARCE, )  
                )  
**Plaintiffs,**                 )  
                )  
                )  
vs.                             )  
                )  
**LOWE'S HOME CENTERS, INC.,** )  
                )  
                )  
**Defendant.**                 )  
                )

---

**ORDER**

THIS MATTER is before the Court, *sua sponte*, concerning the issue of precertification discovery, and specifically, to what extent Plaintiffs may be able to discover electronic source data regarding compensation,<sup>1</sup> application submission and review, hiring, and other human resources information maintained by Defendant. Resolution of this issue will assist the Court in setting forth the guidelines for precertification discovery.

The Court seeks the parties' guidance as to what source data Defendant maintains and in what format such information is available. In order to address this issue, the Court will allow the parties until Friday, March 23, 2007, for depositions, retention of an expert, and any other discovery on this limited issue as may be necessary.<sup>2</sup> Accordingly, Plaintiffs should submit their memorandum

---

<sup>1</sup>As clarified at the hearing on February 23, 2007, the term "compensation" is to be construed broadly and includes an employee's total W-2 compensation. (See Transcript of Hearing February 23, 2007, p. 4).

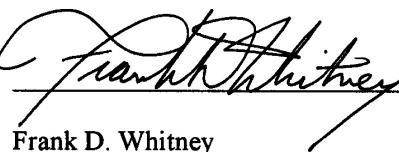
<sup>2</sup>The parties are strongly encouraged to resolve amongst themselves any discovery disputes that may arise of this Order. Should an unresolvable dispute present itself, the parties are directed to immediately contact the Chambers of the undersigned at (704) 350-7483. Due to the concise discovery schedule, the Court will be especially inclined to award sanctions as it deems necessary for discovery disputes arising out of this Order.

of law on this issue by Friday, March 30, 2007. Defendant must submit its response by Friday, April 6, 2007. No reply brief will be permitted, and the parties are reminded of the Court's previously imposed word limit of three thousand (3,000) words.<sup>3</sup>

IT IS, THEREFORE, ORDERED that the parties shall have to and through March 23, 2007, to conduct discovery on the limited issues of: (1) what electronic data Defendant owns regarding the topics of compensation, application submission and review, hiring, and other human resources information for Defendant's employees during the relevant time period; and (2) in what format is this information available. The parties shall submit a memorandum of law to the Court on these issues in accordance with the briefing schedule set forth herein.

IT IS SO ORDERED.

Signed: February 27, 2007



Frank D. Whitney  
United States District Judge



---

<sup>3</sup> See Transcript of Hearing February 2, 2007, p. 8.